MONTANA LEGISLATIVE HISTORY

Chapter 212 19 95

Bill H 166 S _____ Original bill & history ✓ C

H. Committee on Local Government			S. Committee on Local Government		
Hearing Date(s)	1/24	✓ C	Hearing Date(s)	_____	____ C
	2/7	✓ C	+ exec action	3/7	✓ C
	_____	____ C		_____	____ C
	_____	____ C		_____	____ C
Date Out	_____	____ C			

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

3/14	2ND READING CONCURRED	50	0
3/15	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/16	SIGNED BY SPEAKER		
3/18	SIGNED BY PRESIDENT		
3/20	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 216		
	EFFECTIVE DATE: 10/01/95		

HB 166 INTRODUCED BY MCGEE, ET AL.

ALLOW FIRE SERVICE AREAS TO ADOPT A FIRE CODE AND PLAN FOR ENFORCEMENT UPON CERTIFICATION BY DEPARTMENT OF JUSTICE

1/12	INTRODUCED		
1/12	FIRST READING		
1/12	REFERRED TO LOCAL GOVERNMENT		
1/24	HEARING		
2/09	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/11	2ND READING PASSED	95	0
2/13	3RD READING PASSED	98	0
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO LOCAL GOVERNMENT		
3/07	HEARING		
3/09	COMMITTEE REPORT—BILL CONCURRED		
3/11	2ND READING CONCURRED	30	3
3/13	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/15	SIGNED BY SPEAKER		
3/18	SIGNED BY PRESIDENT		
3/20	TRANSMITTED TO GOVERNOR		
3/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 212		
	EFFECTIVE DATE: 10/01/95		

HB 167 INTRODUCED BY SHEA, ET AL.

PROVIDE FOR SCHOOL DISTRICT COMPLIANCE WITH REQUIREMENTS OF THE FEDERAL GUN-FREE SCHOOLS ACT OF 1994

BY REQUEST OF THE GOVERNOR AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION

1/12	INTRODUCED		
1/12	FIRST READING		
1/12	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/20	HEARING		
1/28	COMMITTEE REPORT—BILL PASSED		
1/31	2ND READING PASSED	73	26
2/01	3RD READING PASSED	73	25
	TRANSMITTED TO SENATE		
2/02	FIRST READING		
2/02	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/01	HEARING		
3/17	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/25	2ND READING CONCURRED	48	0
3/27	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/04	2ND READING AMENDMENTS CONCURRED	90	7
4/05	3RD READING AMENDMENTS CONCURRED	83	15

House BILL NO. 166

INTRODUCED BY [illegible] Hayne Bishop [illegible] Carey

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FIRE SERVICE AREAS TO ADOPT A FIRE CODE AND PLAN FOR ENFORCEMENT UPON CERTIFICATION BY THE DEPARTMENT OF JUSTICE; PROVIDING FOR FIRE INSPECTIONS IN FIRE SERVICE AREAS; AND AMENDING SECTIONS 7-33-2402, 50-61-102, 50-61-114, AND 50-63-202, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-33-2402, MCA, is amended to read:

"**7-33-2402. Area services.** (1) A fire service area created pursuant to 7-33-2401 may provide residents of the area with adequate and standard:

~~(1)(a)~~(a) (i) fire and emergency response equipment, personnel, facilities, and maintenance, for a fire service agency providing service to the area; or

~~(b)~~(ii) fire protection by contracting for the services of a fire service agency; and

~~(2)~~(b) emergency medical services and equipment, licensed by the department of health and environmental sciences, and related personnel, facilities, and maintenance.

(2) A fire service area may, pursuant to 50-61-102, submit a fire code and a plan for enforcement to the department of justice in order to be certified for local enforcement."

Section 2. Section 50-61-102, MCA, is amended to read:

"**50-61-102. Department of justice to administer chapter.** (1) The department of justice has general charge and supervision of the enforcement of this chapter, and the officers enumerated in 50-61-114 shall act under its general charge and supervision, shall assist the department in giving effect to this chapter, and are subject to its direction and the rules adopted under 50-3-102 and 50-3-103 for the enforcement of 50-61-120 and 50-61-121 and this chapter.

(2) Upon its approval of a fire code and a plan for enforcement of the code filed by a municipality, ~~or~~ district, or fire service area, the department may certify a municipal, ~~or~~ district, or fire service area fire inspection program for local enforcement."

Section 3. Section 50-61-114, MCA, is amended to read:

"**50-61-114. Fire chief and fire inspector to make inspections.** The chief of the fire department of each municipality, ~~or~~ district, or fire service area, when a fire inspection program is established, or a fire inspector of the department of justice, when ~~no~~ a fire inspection program ~~exists~~ does not exist, for the purpose of examining the premises for violations of this chapter and rules adopted under 50-3-103 for the enforcement of this chapter:

(1) shall enter into school buildings at least once each 12 months; and

(2) may enter into all other buildings and upon all other premises within ~~his~~ the jurisdiction, according to priority schedules established by the department for conducting inspections of buildings and premises."

Section 4. Section 50-63-202, MCA, is amended to read:

"**50-63-202. Fire chief or sheriff to conduct investigation.** If the fire occurs within a municipality, ~~or~~ organized fire district, or fire service area, the chief of the fire department shall make the investigation. If the fire occurs outside a municipality, ~~or~~ organized fire district, or fire service area, the county sheriff shall make the investigation."

-END-

HOUSE LOCAL GOVERNMENT

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
HB0159	TREXLER, CLIFF 1/12	1/17	PROVIDE FOR CANCELLATION OF ANNUAL ELECTION AND APPOINTMENT TO PUBLIC OFFICE	TABLED ON 01/26 VOTE: 11-6		
HB0165	STORY, ROBERT 1/12	1/19	ALLOW GOVERNING BODY TO SET OFFICE HOURS FOR COUNTY OFFICES	PASS AS AMENDED 2/7 VOTE: 14-4		2/09
HB0166	MCGEE, DANIEL 1/12	1/24	ALLOW FIRE SERVICE AREA TO ADOPT & ENFORCE FIRE CODE & CONDUCT INSPECTIONS	PASS AS AMENDED 2/7 VOTE: 18-0		2/09
HB0185	BERGSAGEL, ERNEST 1/13	1/17	REVISE COUNTY LAND PLANNING FUNDS ALLOCATION	DO PASS 1/26 VOTE: 18-0		1/28
HB0220	ELLIOTT, JIM 1/16	1/26	ALLOWING EQUAL ASSESSMENTS AGAINST PROPERTY IN STREET LIGHTING DISTRICTS	PASS AS AMENDED 2/7 VOTE: 18-0		2/09
HB0231	PAVLOVICH, BOB 1/16	1/31	INCREASE FEE FOR ENTRY OF CONFESSION OF JUDGEMENT	DO PASS 2/14 VOTE: 11-6		2/15
HB0249	MARSHALL, ROD 1/17	2/07	GENERALLY REVISING LOCAL GOVERNMENT TRAFFIC REGULATION	VOTE:	HIGHWAYS & TRANS.	
HB0259	TUSS, CARLEY 1/18	1/31	RAISE PENALTY FOR MINORS VIOLATING A CURFEW ORDINANCE	DO PASS 2/14 VOTE: 12-6		2/15
HB0260	TUSS, CARLEY 1/18	1/31	ALLOW TOWN TO INCORPORATE WITHIN 3 MILES OF EXISTING INCORPORATED TOWN	TABLED ON 02/14 VOTE: 12-6		
HB0261	WENNEMAR, KENNETH 1/18	2/16	ALLOW LOCAL GOVT'S TO STABILIZE RENT OF TRAILER PARK SPACES BY ORDINANCE	TABLED ON 02/16 VOTE: 14-4		
HB0270	MCCULLOCH, LINDA 1/18	2/02	ALLOW REAL PROP OWNER TO PETITION FOR INCLUSION IN TRANSPORTATION DIST	PASS AS AMENDED 2/14 VOTE: 13-5		2/15
HB0282	EWER, DAVID 1/19	1/24	CLARIFY DEPT OF COMMERCE DUTIES IN AUDITING & SUPERVISING LOCAL GOVERNMENTS	DO PASS 1/26 VOTE: 18-0		1/28

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN WILLIAM BOHARSKI**, on January 24, 1995, at 3:15 P.M.

ROLL CALL

Members Present:

Rep. William E. Boharski, Chairman (R)
Rep. Jack R. Herron, Vice Chairman (Majority) (R)
Rep. David Ewer, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Ellen Bergman (R)
Rep. John C. Bohlinger (R)
Rep. Matt Brainard (R)
Rep. Matt Denny (R)
Rep. Rose Forbes (R)
Rep. Antoinette R. Hagener (D)
Rep. Bob Keenan (R)
Rep. Linda McCulloch (D)
Rep. Jeanette S. McKee (R)
Rep. Norm Mills (R)
Rep. Debbie Shea (D)
Rep. Joe Tropila (D)
Rep. Diana E. Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Council
Evelyn Burris, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 166, HB 249 (delayed), HB 282, HJR 11
Executive Action: HJR 11 DO PASS
HB 105 DO PASS
HB 113 DO PASS

HEARING ON HB 166

Opening Statement by Sponsor:

REP. DAN MCGEE, HD 21, Laurel, said this is an act allowing fire service areas to adopt a fire code and plan for enforcement upon certification by the Department of Justice; providing for fire inspections in fire service areas; and amending Section 7-32-2402, 50-61-102, 50-61-114, and 50-63-202, MCA. He explained what fire service is, and the district he is in, which is the southwest area of Billings, beginning at the mall located south of the river and west of 64th Street West which covers a sizeable area. Currently, the Billings fire department is under contract with Yellowstone County to provide fire fighting forces for that portion of his area that is not otherwise in the municipalities. The problem is they have to operate under two different sets of rules; the municipality and the fire service areas creating a conflict in investigation and enforcement. This bill speaks to the lack of fire service areas. It also addresses municipalities and fire districts.

Proponents' Testimony:

Gordon Morris, Director of the Association of Counties MACO, said they support this bill. He explained that the background of this bill comes courtesy of the Yellowstone County Commissioners and MACO resolution 94-41 adopted by their membership in September at the annual convention. He reviewed and explained the sections of the bill and asked for favorable consideration of this bill.

{Tape: 1; Side: A; Approx. Counter: 5.4;}

Paul Gerber, Fire Marshall, Billings, presented and explained his testimony. **EXHIBIT 1** He gave the example of how this would tie together. "The Billings fire department is under the uniform fire code as is the entire state. Last summer in their BUFSA area they had a controlled burn that became a very hazardous situation. The uniform fire code states that they have the authority to discontinue an open burn if it presents a hazardous condition. The problem is, they do not have the authority to enforce in that area. They did receive a call and their suppression people responded. It not only turned into a blown-up incident with the property owner, but they were also afraid they were going to get a tremendous fire. Even though they did not have the authority they did put the fire out. If they were to do it according to the way the state law reads, they should have contacted the Deputy State Fire Marshall who would then come in, assess the situation and take care of the incident. The Billings city attorney is in concurrence with the attorney general's office and have taken the position that fire service areas have no code enforcement or fire investigation authority under the present state law. HB 166 would make the necessary changes to current state law that would give fire service areas the opportunity to provide for their own code enforcement. It would

enable fire codes to be enforced at the local level rather than at the state level. If fire service areas do not want to provide their own code enforcement, the Montana Fire Prevention and Investigation Bureau will continue to provide code enforcement to such areas, as they are currently doing at this time."

{Tape: 1; Side: A; Approx. Counter: 7.3;}

Bruce Suenram, State Fire Marshall, Department of Justice, said they believe this bill is a good idea and the issue of fire service areas not having fire prevention authority has been a concern for a long time and this bill would solve it.

Lonnie Larson, Deputy Fire Marshall, Billings said he is currently involved in the investigation area and gets involved with plan reviews. There have been several incidents with plan reviews and investigations where they respond to a call and then have to back off, and look for someone with authority to take over. To keep from going to court or causing problems, they have to turn over the case to other agencies. This bill will help eliminate some of the double work that has been done.

Bob Knudson, Fire Marshall, Helena, presented and submitted his written testimony. **EXHIBIT 2** He attested that the City of Helena Fire Department strongly supports HB 166. They believe this legislation is needed in order to bring consistency to the manner in which fire codes are enforced in the state of Montana, and provide equal protection to all citizens. Currently, the city provides contract fire protection to the citizens of the Westside fire service area. An integral part of any fire protection program is the detection and correction of violations <u>before</u> they result in a disastrous fire. Present state laws do not adequately provide for the enforcement of fire codes where a fire service area exists. History is full of abundant examples where the failure to insure public safety with thorough and consistent application of fire safety standards has resulted in death and injury. To presume that the state of Montana can continue to ignore segments of its population merely because of where they live is to court tragedy. The goal is to protect all of the citizens on an equal basis and provide the fire service with the mechanism to accomplish this.

Tim Bergstrom, Montana State Firemen's Association, requested to go on record as strongly supporting this legislation and urged the committee to give a do pass.

Lyle Nagel, Assistant Fire Chief, Simms, said they are one of the companies in the Cascade County consolidated fire service area and they are in agreement with all the previous testimony in support of this bill and urged a do pass vote.

<u>Opponents' Testimony</u>: None

<u>Informational Testimony</u>: None

Questions From Committee Members and Responses:

REP. DAVID EWER noted this bill addresses specifically rural fire areas and he asked **Bruce Suenram** if the empowerment he is supporting for rural fire services areas and rural fire districts, have that authority now and he also noted that he did not see that it was specifically delineated in reviewing the code for rural fire districts. **Mr. Suenram** responded that currently fire districts and municipalities do have fire prevention authority and they are asking for the same authority for other fire service areas. **REP. EWER** said he read the code that it's implicit and he did not see where it was explicit. **REP. EWER** then read from the Code Book that Title 7 is full of very closely parallels like SID's for counties, SID's for cities, borrowing authority for counties and cities. He recommended that if the effort is taken to accomplish this, they also need to be sure that it is also in for fire districts so they do not have to present this issue again. **REP. EWER** concluded by saying this is a good bill and will pass. **Mr. Suenram** said the authority he would cite for fire districts is in 5061, Fire Marshall statutes, that specifically talks about municipalities and districts.

{Tape: 1; Side: A; Approx. Counter: 18.1 Comments on tape}

Closing by Sponsor:

In closing **REP. McGEE** read a letter from James L. Craft, Rural Fire Chief, Yellowstone County, regarding HB 166 as a proponent.

HEARING ON HB 249

Opening Statement by Sponsor:

ROD MARSHALL, HD 28, Bozeman, stated this bill was originally a little housecleaning bill but unfortunately, it became so debatable just before he came to the committee meeting, that he asked this bill be allowed some amendments and be reheard February 7. He did not have the amendments in writing and was not ready to present. **REP. MARSHALL** said the people in Bozeman and Helena suggested they have two weeks to be able to rewrite and save the bill.

CHAIRMAN BOHARSKI asked if **REP. MARSHALL** had spoken to both opponents and proponents of the bill. He responded yes and there was no objection and that, in fact, they requested this delay.

HEARING ON HJR 11

Opening Statement by Sponsor:

REP. CARLEY TUSS, HD 46, Great Falls and **Black Eagle,** said this resolution is honoring the memory of Senior Police Officer Shane

EXHIBIT 1
DATE 1-24-95
HB 166

PAUL SEABER.

- Billings Urban Fire Service Area
- 50 square miles
- 12,000 population
- 283 responses into FSA, including 6 structure fires, in 1994
- 7 schools in BUFSA - Fire department provides public education but no code enforcement
- Fire Department can review plans for life safety requirements, as courtesy review only, in BUFSA
- 4 Deputy Fire Marshals and 1 Fire Marshal in our office that could provide responsive code-related services to BUFSA as opposed to 1 State Deputy Fire Marshal assigned to a several county area
- Fire Marshal or Deputy Fire Marshal in our office on call at all times - can respond to complaint or life safety situations instantly
- Billings City Attorney, in concurrence with Attorney General's Office has taken position that fire service areas have no code enforcement or fire investigation authority under present state law
- Yellowstone County Commissioners want Fire Department to provide code enforcement to BUFSA, just as we, ourselves, want to provide that service
- Example - Under Uniform Fire Code, Fire Marshal's Office has authority to discontinue open burn if it presents hazard condition. Last summer, Fire Department encountered such a situation but did not have authority to remedy situation. Under present, state law, State Deputy Fire Marshal must be located to assess open burning hazardous condition.
- HB 166 would make the necessary changes to current state law that would give fire service areas the opportunity to provide for their own code enforcement. It would enable fire codes to be enforced at the local level rather than at the state level. If fire service areas do not want to provide their own code enforcement, the Montana Fire Prevention and Investigation Bureau will continue to provide code enforcement to such areas, as they are currently doing at this time.

HB 166 - FSA BILL

- Would not require Fire Service Areas to enforce fire code or investigate fires - only give them option to do so if they desired
- No increased cost to local government unless they chose to enforce fire code or investigate fires
- Ease workload of Montana Fire Prevention and Investigation Bureau - State bureau cannot keep up with complete inspection program at this time
- Give local authorities opportunity to enforce fire code rather than have enforcement at state level
- Provide win-win situation for local and state entities - bill supported at local and state level
- Fire Service Areas did not exist when sections of state law governing fire district and municipality code enforcement and fire investigation were written
- Supported by Montana Association of Counties, Montana Fire Prevention and Investigation Bureau and Montana Fire Service, in general
- Enable fire service review of plans for structures being built in fire service areas
- Give greatest continuity and consistency for total fire protection - same agency that responds to emergencies would also be able to provide code enforcement and fire investigations
- Gives fire service agencies protecting fire service areas mechanism for becoming familiar with buildings and area their suppression personnel are protecting

EXHIBIT 1
DATE 1-24-95
HB 166

AGREEMENT FOR FIRE SERVICES

THIS AGREEMENT is made and entered into this 27 day of June, 1994, by and between the CITY OF BILLINGS, MONTANA, a municipal corporation, hereinafter referred to as the "CITY" and the BILLINGS URBAN FIRE SERVICE AREA, hereinafter referred to as the "BUFSA".

W I T N E S S E T H

WHEREAS, the CITY maintains a fire department and is willing to provide fire protection, prevention, investigation and code enforcement services to properties within the BUFSA at the same level as such services are provided to properties within the corporate limits of the CITY, upon the terms and conditions hereinafter provided; and,

WHEREAS, the BUFSA has been duly and properly created by the Board of County Commissioners of Yellowstone County pursuant to the provisions of Sections 7-33-2401 through 7-33-2404, inclusive, of the Montana Code Annotated; and,

WHEREAS, inclusive of the agreement and attached hereto is the BUFSA boundary description and map; and,

WHEREAS, the BUFSA desires to continue with the above named fire services from the CITY and renew the contract with the CITY for such services; and,

WHEREAS, the Board of County Commissioners for Yellowstone County have elected to govern and manage the affairs of the BUFSA pursuant to Section 7-33-2403, MCA.

WHEREAS, the Board of County Commissioners shall retain the right to transfer the management of the BUFSA to a Board of Trustees in accordance with Section 7-33-2403, MCA, and written notice of such transfer shall be provided to the CITY thirty (30) days prior to the effective date of transfer.

NOW THEREFORE, it is agreed by and between the parties hereto as follows:

1. SERVICES

The CITY will furnish the following services to properties and residents within the BUFSA, at the same level as such services are provided to properties and residents within the corporate limits of the CITY:

a. fire protection and suppression;
b. fire prevention and investigation;
c. hazardous material response;
d. enforcement of the uniform fire code adopted by county or the state;
e. medical emergency first responder.

City further agrees to provide grassland, rangeland, and timberland fire protection services to such properties located within the BUFSA.

2. SERVICE AREA

Fire services will be provided to all properties located within the boundaries of the BUFSA (including Metrapark) as specified in the resolution of the Yellowstone County Commissioners creating said BUFSA, and as amended from time to time by agreement of the parties. Any enlargement of the BUFSA will not receive fire services unless the enlargement is approved in writing by the CITY. Other than annexation,

EXHIBIT 2
DATE 1-24-95
HB 166
Bob Knudson

The City of Helena Fire Department strongly supports House Bill # 166. We believe that this legislation is needed in order to bring consistency to the manner in which fire codes are enforced in the State of Montana, and provide equal protection to all of our citizens.

At the present time the City provides contract fire protection to the citizens of the Westside Fire Service Area. An integral part of any fire protection program is the detection and correction of violations before they result in a disastrous fire. Unfortunately present State laws do not adequately provide for the enforcement of fire codes were a fire service area exists.

History is full of abundant examples where the failure to insure public safety through the thorough and consistent application of fire safety standards has resulted in death and injury. To presume that the State of Montana can continue to ignore segments of its population merely because of where they live is to court tragedy.

If we are going to take on the burden of protecting all of our citizens on an equal basis, then we need to provide the fire service with the mechanism to accomplish that goal.

HOUSE OF REPRESENTATIVES

Local Government

ROLL CALL DATE 1-24-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bill Boharski, Chairman	✓		
Rep. Jack Herron, Vice Chairman, Majority	✓		
Rep. David Ewer, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Shiell Anderson	✓		
Rep. Ellen Bergman	✓		
Rep. John Bohlinger	✓		
Rep. Matt Brainard	✓		
Rep. Matt Denny	✓		
Rep. Rose Forbes	✓		
Rep. Toni Hagener	✓		
Rep. Bob Keenan	✓		
Rep. Linda McCulloch	✓		
Rep. Jeanette McKee	✓		
Rep. Norm Mills	✓		
Rep. Debbie Shea	✓		
Rep. Joe Tropila	✓		
Rep. Diana Wyatt	✓		

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

State Government COMMITTEE DATE 1-24-95

BILL NO. 166 SPONSOR(S)

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
W. James Kembel	City of Billings	✓	
Bruce Sveman	State Fire Marshal Justice	✓	
Bob Knudson	City of Helena	✓	
Fritz Zettel	City of Helena Fire Dept	✓	
Pat Clinch	MT State Council Fire Fighters	✓	
Lonnie Larson	DFM City Billings Fire	✓	
Paul Gerber	Billings Fire	✓	
Lyle Nagel	Simms V.F.D	✓	
Dan McGee	HD 21	✓	
Tim Bergstrom	MT. State Firemen's Assoc	✓	
Gordon Morris	MACo	✓	
Alec Hansen	MLCT	✓	
Don Hurni	City of Helena	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORM ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993
wp:vissbcom.man
CS-14

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **VICE CHAIRMAN JACK HERRON**, on February 7, 1995, at 3:00 P.M.

ROLL CALL

Members Present:

Rep. William E. Boharski, Chairman (R)
Rep. Jack R. Herron, Vice Chairman (Majority) (R)
Rep. David Ewer, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Ellen Bergman (R)
Rep. John C. Bohlinger (R)
Rep. Matt Brainard (R)
Rep. Matt Denny (R)
Rep. Rose Forbes (R)
Rep. Antoinette R. Hagener (D)
Rep. Bob Keenan (R)
Rep. Linda McCulloch (D)
Rep. Jeanette S. McKee (R)
Rep. Norm Mills (R)
Rep. Debbie Shea (D)
Rep. Joe Tropila (D)
Rep. Diana E. Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Council
Evelyn Burris, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 393; SB 99	
Executive Action:	HB 393	DO PASS
	SB 99	BE CONCURRED IN
	HB 101	DO PASS
	HB 129	TABLED
	SB 52	BE CONCURRED IN
	HB 154	DO PASS
	HB 103	NOT RECONSIDERED
	HB 165	DO PASS AS AMENDED
	HB 166	DO PASS AS AMENDED
	HB 220	DO PASS AS AMENDED

there would not be a commensurate reduction in pay with a reduction in office hours. He feels with the amendment it is a good bill.

REP. BERGMAN asked if they are telling the counties that if the commissioners decide they want to cut hours this bill can do that for them. The answer is yes.

REP. BOHLINGER stated he feels the question will be is this a forty-hour a week job that perhaps can be done in twenty hours. He said they want to have the flexibility not necessarily to accommodate the employee but to accommodate the taxpayer. This bill is a way to streamline government and operate more efficiently.

REP. WYATT said they would have to have both the public hearing and the consent by the elected officer. **Mr. Campbell** responded yes. **REP. WYATT** asked statistically, how many times are they going to have the public agree and the officer refuse to agree, in other words how many times is this bill going to take effect, two times around the state in the next twenty years or two hundred times. **Mr. Campbell** said he could not answer that.

REP. HAGENER pointed out that on the question about cutting hours and cutting pay, most of the elected official salaries are established by law and the county commissioners could not cut them if they wanted to. They don't have the authority to supersede what the legislature has set in the way of salary for the officials. This does apply to isolated areas and as far as the building is concerned they are going to be heating it day and night anyway. She said this bill is providing the possibility of one person, in a one-person office being able to go to lunch or the bathroom or take care of a sick child without having to lock their door and have someone complain about it.

Vote: The motion carried 14-4.

EXECUTIVE ACTION ON HB 166

Motion: REP. MILLS MOVED HB 166 DO PASS. REP. BOHARSKI MOVED HIS AMENDMENT.

Discussion: REP. BOHARSKI said he has an amendment but is not sure it's needed. In the fire service area, are those all required to be authorized by the county commissioners. **REP. EWER** referred to Title 7 Section 7-33-2403, and responded. **REP. BOHARSKI** said elected officials are the ones that are going to be making the decisions. His concern is if the county commissioners create a fire service area and then appoint a board, if then, realistically, are they accountable to the commissioners. He stated his concern that he is worried about them de-sectioning some of the codes without any oversight from any official or the public and that's what he doesn't want to happen. **REP. EWER** said

under current law, they have trustees that are appointed by the commissioners. **EXHIBIT 4**

Mr. Campbell explained the amendment.

REP. EWER suggested the amendment also needs the language stating "provided that" and then go to B.

Mr. Campbell again explained the amendment.

Vote: Motion carried 18-0.

Motion: REP. BOHLINGER MOVED HB 166 DO PASS AS AMENDED.

Discussion: REP. ANDERSON asked what is the fire code that is being submitted and why would it be different from any other fire area. **Mr. Campbell** responded the fire code is the same as the state fire code. In some jurisdictions a city will offer to enforce the fire code. A county fire service district can opt with the law not to enforce the fire code rather than have the state do it. They submit a plan and get approval from the department.

REP. BOHLINGER said this bill would enhance public safety and expand code enforcement opportunities and help make the community safer.

Vote: Motion carried 18-0.

EXECUTIVE ACTION ON HB 220

Motion: REP. BOHARSKI MOVED HB 220 DO PASS. REP. BOHARSKI MOVED HIS AMENDMENT.

Discussion:

REP. BOHARSKI explained the need for his amendment. **Mr. Campbell** detailed further explanation. **EXHIBIT 5**

REP. DENNY asked when the district is set up is it a majority of the owners of the property or the owners of the majority of the property. **Mr. Campbell** explained when there is a desire to set up a lighting district, if they don't receive protests from the owners of the majority of the property then they can set it up.

REP. EWER said in his opinion he is not convinced the amendment is necessary because special improvement districts require resolutions to be set up. They have to say the method of assessment to set them up and the law states if they are going to change, they have to go back.

REP. BOHARSKI responded if that is the case, there is no need for the amendment. **Mr. Campbell** said without the amendment they do

EXHIBIT 4
DATE 2-7-95
HB 166

Amendments to House Bill No. 166
First Reading Copy

Requested by Rep. Boharski
For the Committee on Local Government

Prepared by Bart Campbell
February 7, 1995

1. Page 1, line 19.
Following: "may"
Insert: ", after receiving approval from the board of county commissioners,"

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Local Government

DATE 2-7-95 BILL NO. 166 NUMBER

MOTION: Rep. Bohlinger moved Do Pass Bill As Amended.
Question Called

NAME	AYE	NO
Rep. Bill Boharski, Chairman		
Rep. Jack Herron, Vice Chairman, Majority		
Rep. David Ewer, Vice Chairman, Minority		
Rep. Chris Ahner		
Rep. Shiell Anderson		
Rep. Ellen Bergman		
Rep. John Bohlinger		
Rep. Matt Brainard		
Rep. Matt Denny		
Rep. Rose Forbes		
Rep. Toni Hagener		
Rep. Bob Keenan		
Rep. Linda McCulloch		
Rep. Jeanette McKee		
Rep. Norm Mills		
Rep. Debbie Shea		
Rep. Joe Tropila		
Rep. Diana Wyatt		

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Local Government

DATE 2-7-95 BILL NO. 166 NUMBER _____ (DO PASS)

MOTION Rep. Boharski - moved (new amendment)

Question - Line 19 - Pg 1 -

NAME	AYE	NO
Rep. Bill Boharski, Chairman		
Rep. Jack Herron, Vice Chairman, Majority		
Rep. David Ewer, Vice Chairman, Minority		
Rep. Chris Ahner		
Rep. Shiell Anderson		
Rep. Ellen Bergman		
Rep. John Bohlinger		
Rep. Matt Brainard		
Rep. Matt Denny		
Rep. Rose Forbes		
Rep. Toni Hagener		
Rep. Bob Keenan		
Rep. Linda McCulloch		
Rep. Jeanette McKee		
Rep. Norm Mills		
Rep. Debbie Shea		
Rep. Joe Tropila		
Rep. Diana Wyatt		

HOUSE STANDING COMMITTEE REPORT

February 8, 1995

Mr. Speaker: We, the committee on **Local Government** report that **House Bill 166** (first reading copy -- white) **do pass as amended.**

Signed: Wm E Boharski
Bill Boharski, Chair

And, that such amendments read:

1. Page 1, line 20.
Following: "enforcement."
Insert: "However, an appointed board of trustees of a fire service area shall obtain approval of the county commissioners prior to submitting a fire code and a plan of enforcement to the department of justice."

-END-

Committee Vote:
Yes 18, No 0.

331413SC.Hbk

SENATE LOCAL GOVERNMENT

CHAIRMAN--TOM BECK
SECRETARY-ELAINE JOHNSTON
NORMAL SCHEDULE => SITE: ROOM 405 DAYS: T,TH,S TIME: 3 P.M. OR ON ADJOURN

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
HB0061	NELSON, THOMAS 1/17	2/28	ELIMINATE APPROVAL OF POLITICAL SUBDIVISIONS SETTLEMENTS BY DISTRICT COURT	CONCUR 2/28 VOTE:		3/02
HB0101	MASOLO, GAY 2/20	3/14	ALLOW SELF-GOVERN LOCAL GOV'T TO PROVIDE ALTERNATIVES TO STATE REQ SRVICE 3/23	TABLED ON 03/24 VOTE:		
HB0105	BOHLINGER, JOHN 2/01	2/28	REPEAL PROVISION FOR ELECTION & LIMITATION OF COUNTY EMERGENCY EXPENDITURES	CONCUR 2/28 VOTE:		3/02
HB0113	EWER, DAVID 1/31	3/02	ALLOW PLEDGE OF RURAL FIRE DISTRICT INCOME TO SECURE PURCHASE OF EQUIPMENT	CONCUR 3/2 VOTE:		3/04
HB0115	BARNHART, BEVERLY 1/24	2/28	INCREASE TO 10 WORKING DAYS TIME FOR CITY TO REPORT DELINQUENT TAX TO COUNTY	CONCUR 2/18 VOTE:		3/02
HB0136	ELLIS, ALVIN 2/02	3/02	REVISE METHOD OF CONTRACTING FOR COUNTY PRINTING	CONCUR 3/2 VOTE:		3/04
HB0154	KASTEN, BETTY LOU 2/20	3/07	REVISE SPECIAL LEVY ELECTIONS FOR CERTAIN HOSPITAL FACILITIES	CONCUR 3/7 VOTE:		3/09
HB0165	STORY, ROBERT 2/20	3/07	ALLOW GOVERNING BODY TO SET OFFICE HOURS FOR COUNTY OFFICES	CONCUR 3/7 VOTE:		3/09
HB0166	MCGEE, DANIEL 2/20	3/07	ALLOW FIRE SERVICE AREA TO ADOPT & ENFORCE FIRE CODE & CONDUCT INSPECTIONS	CONCUR 3/7 VOTE:		3/09
HB0185	BERGSAGEL, ERNEST 2/01	3/07	REVISE COUNTY LAND PLANNING FUNDS ALLOCATION	CONCUR 3/7 VOTE:		3/09
HB0197	EWER, DAVID 2/27	3/09	REVISE TYPES OF INVESTMENT BY LOCAL GOVERNMENT AND SCHOOL DISTRICT TRUSTEES	CONCUR AS AMENDED 3/23 VOTE:		3/25

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN TOM BECK**, on March 7, 1995, at 3:00 p.m.

ROLL CALL

Members Present:
Sen. Thomas A. "Tom" Beck, Chairman (R)
Sen. Ethel M. Harding, Vice Chairman (R)
Sen. Sharon Estrada (R)
Sen. Delwyn Gage (R)
Sen. Don Hargrove (R)
Sen. Dorothy Eck (D)
Sen. John "J.D." Lynch (D)
Sen. Jeff Weldon (D)

Members Excused: none

Members Absent: Sen. Jeff Weldon

Staff Present: Susan Fox, Legislative Council
Elaine Johnston, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 154, HB 165, HB 166, HB 185
Executive Action: HB 154, HB 165, HB 166, HB 185

{Tape: 1; Side: A; Approx. Counter: ; Comments: .}

HEARING ON HB 185

Opening Statement by Sponsor:

REP. ERNEST BERGSAGEL, HD 95, Malta, presented HB 185 by request of the audit committee. When they did an audit of the Department of Commerce, they were found to be complying with the wishes of the Legislature but not in affect with the law. The coal tax revenues are allocated by a specific amount of money ($3,000) but when the coal revenues dropped they were unable to allocate this

Questions From Committee Members and Responses:

SEN. LYNCH asked who would determine the hours in a consolidated government, the executive branch or the legislative branch? **Ms. Gibson** answered that the language in section two states the governing body which in a consolidated county would be the council of commissioners.

SEN. HARGROVE asked if it was necessary to have a public hearing? **Ms. Gibson** noted that this was by request of other county elected officials in the House Local Government hearing.

SEN. HARGROVE wanted to have it clarified that there is nothing in law that requires the public hearing? **Ms. Gibson** stated that if HB 165 is passed it will become law in these instances otherwise it is set in statute.

SEN. DOROTHY ECK stated that for any resolution of the county commissioners, they have to have a public hearing.

CHAIRMAN BECK, giving the committee words of wisdom, stated that if you are going to pass a resolution, you should have public involvement.

Closing by Sponsor:

REP. STORY pointed out that since the bill has been amended, it may exclude the court house from being open on Saturdays and if the committee wants to take a look at that it would be fine. He appreciated the committee's consideration.

HEARING ON HB 166

Opening Statement by Sponsor:

SEN. DANIEL MCGEE, HD 21, Laurel, presented HB 166 which is an act to allow fire service areas to adopt fire codes for enforcement and inspections. He drew a picture representing his district and showed a very small portion which is in the city of Billings that is serviced for fires by the Billings Fire Department. A fire service area services around 85% to 90% of his district. Currently, a contract exists between the City Fire Department and Yellowstone County so that the City will respond to any fire in the fire service area. When the fire service area was created, it left off the ability for the City Department to investigate a fire. Either a Deputy State Fire Marshall or a County Sheriff must be the primary investigator. Also, the fire service area may not adopt a fire code and must use a state wide fire code. HB 166 would put into law that a fire service area has the same weight in law as a fire district for investigatory work and enforcement of a fire code. Lines 19 through 23 on page one are the main text of the bill.

Proponents' Testimony:

Paul Gerber, Fire Marshall, Billings, presented the committee with a fact sheet on HB 166 and a page from their fire service contract with the Billings Fire Department and Yellowstone County **(EXHIBIT 3 & 4)**. A fire service area is a geographical area that is formed for the purpose of fire protection which is similar to a fire district but it has a different organizational start up procedure. Currently there are around 22 fire service areas in which the Montana Fire Prevention and Investigation Bureau provides code enforcement. Four of the 22 service areas are provided fire protection by municipalities. Referring to the current situation in the Billings area, he expressed the need for HB 166 as it is difficult to not be able to intervene in a situation because they do not have the authority to do so causing a loss of valuable time in an emergency situation. The Billings City Attorney in concurrence with the Attorney General's Office has taken the position that the fire service areas have no code enforcement or investigation authority under the current state law. HB 166 would make the necessary changes to state law that would give fire service areas the opportunity to provide for their own code enforcement and if fire service areas do not want to provide their own enforcement, the Montana Fire Prevention and Investigation Bureau would continue to provide the enforcement. He encouraged support of HB 166.

Jim Kembel, City of Billings, urged support of HB 166.

Beverly Gibson, MACO, supported HB 166 and presented a MACO resolution in support of HB 166 to the committee**(EXHIBIT 5)**.

Bruce Suenram, representing the Department of Justice, supported HB 166. When they formed fire service areas, they neglected to give them fire prevention and investigation authority.

Pat Clinch, Montana State Council of Professional Firefighters, urged the committees support of HB 166 which provides life safety to the people in fire service districts and safer fire fighting conditions for the firefighter.

James Loftus, Montana Fire District Association, supported HB 166.

Opponents' Testimony: none

Questions From Committee Members and Responses:

CHAIRMAN BECK asked the difference between a fire district and a fire service area? **Mr. Suenram** said that the primary difference is that fire districts are established by more than 50% of the freeholders and land mass in the proposed area and goes to public hearing. A fire service area is formed by a petition of 30 signatures which goes to public hearing before the commissioner where boundaries are determined. The second major difference is

a fire district is a levy upon all the property in the fire district and a fire service fee area is a fee on the structures.

Closing by Sponsor:

REP. MCGEE stated that when first approached to carry the bill, he could not believe that the fire department could not investigate a fire and urged passage of the bill.

EXECUTIVE ACTION ON HB 166

Motion/Vote: **SEN. LYNCH MOVED HB 166 BE CONCURRED IN. THE MOTION CARRIED.**

EXECUTIVE ACTION ON HB 165

Discussion:

Susan Fox pointed out that the wording would preclude having office hours on Saturdays and Holidays could be perceived that way.

CHAIRMAN BECK pointed out that he did not know of any court houses open on a Saturday or Holiday.

SEN. ECK said she did not think that it was an issue.

Motion: **SEN. LYNCH MOVED HB 165 BE CONCURRED IN.**

Discussion:

SEN. SHARON ESTRADA expressed concern of the county commissioners closing early in unnecessary circumstances.

SEN. LYNCH pointed out that there are some safeguards being that the elected officials must consent and no one would want to upset the public. He would like to see unanimous consent of the commissioners involved rather than a two to one vote.

SEN. HARDING also pointed out that a public hearing is required.

CHAIRMAN BECK said that the benefit of the bill is for the smaller counties who would like to have their lunch breaks.

Vote: **THE MOTION CARRIED.**

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 3
DATE 3-7-95
BILL NO. HB 166

HB 166 - FSA BILL

- Would not require Fire Service Areas to enforce fire code or investigate fires - only give them option to do so if they desired
- No increased cost to local government unless they chose to enforce fire code or investigate fires
- Ease workload of Montana Fire Prevention and Investigation Bureau - State bureau cannot keep up with complete inspection program at this time
- Give local authorities opportunity to enforce fire code rather than have enforcement at state level
- Provide win-win situation for local and state entities - bill supported at local and state level
- Fire Service Areas did not exist when sections of state law governing fire district and municipality code enforcement and fire investigation were written
- Supported by Montana Association of Counties, Montana Fire Prevention and Investigation Bureau and Montana Fire Service, in general
- Enable fire service review of plans for structures being built in fire service areas
- Give greatest continuity and consistency for total fire protection - same agency that responds to emergencies would also be able to provide code enforcement and fire investigations
- Gives fire service agencies protecting fire service areas mechanism for becoming familiar with buildings and area their suppression personnel are protecting

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 4
DATE 3-7-95
BILL NO. HB 166

AGREEMENT FOR FIRE SERVICES

THIS AGREEMENT is made and entered into this 27 day of June, 1994, by and between the CITY OF BILLINGS, MONTANA, a municipal corporation, hereinafter referred to as the "CITY" and the BILLINGS URBAN FIRE SERVICE AREA, hereinafter referred to as the "BUFSA".

W I T N E S S E T H

WHEREAS, the CITY maintains a fire department and is willing to provide fire protection, prevention, investigation and code enforcement services to properties within the BUFSA at the same level as such services are provided to properties within the corporate limits of the CITY, upon the terms and conditions hereinafter provided; and,

WHEREAS, the BUFSA has been duly and properly created by the Board of County Commissioners of Yellowstone County pursuant to the provisions of Sections 7-33-2401 through 7-33-2404, inclusive, of the Montana Code Annotated; and,

WHEREAS, inclusive of the agreement and attached hereto is the BUFSA boundary description and map; and,

WHEREAS, the BUFSA desires to continue with the above named fire services from the CITY and renew the contract with the CITY for such services; and,

WHEREAS, the Board of County Commissioners for Yellowstone County have elected to govern and manage the affairs of the BUFSA pursuant to Section 7-33-2403, MCA.

WHEREAS, the Board of County Commissioners shall retain the right to transfer the management of the BUFSA to a Board of Trustees in accordance with Section 7-33-2403, MCA, and written notice of such transfer shall be provided to the CITY thirty (30) days prior to the effective date of transfer.

NOW THEREFORE, it is agreed by and between the parties hereto as follows:

1. SERVICES

The CITY will furnish the following services to properties and residents within the BUFSA, at the same level as such services are provided to properties and residents within the corporate limits of the CITY:

a. fire protection and suppression;
b. fire prevention and investigation;
c. hazardous material response;
d. enforcement of the uniform fire code adopted by county or the state;
e. medical emergency first responder.

City further agrees to provide grassland, rangeland, and timberland fire protection services to such properties located within the BUFSA.

2. SERVICE AREA

Fire services will be provided to all properties located within the boundaries of the BUFSA (including Metrapark) as specified in the resolution of the Yellowstone County Commissioners creating said BUFSA, and as amended from time to time by agreement of the parties. Any enlargement of the BUFSA will not receive fire services unless the enlargement is approved in writing by the CITY. Other than annexation,

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 5
DATE 3-7-95
BILL NO. HB 166

MONTANA
ASSOCIATION OF
COUNTIES

2711 Airport Road
Helena, Montana 59601
(406) 442-5209
FAX (406) 442-5238

RESOLUTION 94-41

FIRE SERVICE AREA CODE ENFORCEMENT

WHEREAS, many county residents reside in fire service areas; and

WHEREAS, state statute does not include code enforcement, fire investigation, or inspection for fire service areas, MCA 7-33-2402, 50-63-202, 50-61-114; and

WHEREAS, these are all services that exist in municipalities and fire service districts.

NOW, THEREFORE BE IT RESOLVED, that statutes be amended to give fire service areas code enforcement, investigation, and inspection services.

SUBMITTED BY: Yellowstone County/
Board of Directors

PRIORITY: MEDIUM

ADOPTED: ANNUAL CONVENTION
SEPTEMBER 21, 1994

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE

ROLL CALL DATE 3-7-95

NAME	PRESENT	ABSENT	EXCUSED
DOROTHY ECK	✓		
SHARON ESTRADA	✓		
DELWYN GAGE	✓		
DON HARGROVE	✓		
J. D. LYNCH	✓		
JEFF WELDON		✓	
ETHEL HARDING, VICE CHAIRMAN	✓		
TOM BECK, CHAIRMAN	✓		

SEN:1995
wp.rollcall.man
CS-09

DATE March 7, 1995

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: HB 154 HB 165
HB 166 HB 185

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
W James Kembel	City of Billings	HB166	✓	
Jim Halverson	Oil-Gas-Coal Co.	HB165	✓	
Sue Havenfield	Flathead Co/MACR	HB165	✓	
Bruce Suenram	Dept of Justice	HB166	✓	
James A Loftus	MT Fire Dist Assn	HB166	✓	
Paul Gerber	Billings Fire Dept.	HB166	✓	
Vern Erickson	MT State Firemen Assn	"	✓	
Pat Clinch	MT State Council Prof. Firefighters	HB166	✓	
Don Hurni	City of Helena	HB166	✓	
Bunny Gibson	MACO	HB154		
"	"	" 185		
"	"	" 165		
"	✓	" 166		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

SENATE STANDING COMMITTEE REPORT

March 8, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration HB 166 (third reading copy -- blue), respectfully report that HB 166 be concurred in.

Signed: Sen Tom Beck
Senator Tom Beck, Chair

Amd. Coord.
Sec. of Senate

Sen Estrada
Senator Carrying Bill

541112SC.SRF

HOUSE BILL NO. 166

INTRODUCED BY MCGEE, MILLER, HARPER, BISHOP, BARTLETT, CAREY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FIRE SERVICE AREAS TO ADOPT A FIRE CODE AND PLAN FOR ENFORCEMENT UPON CERTIFICATION BY THE DEPARTMENT OF JUSTICE; PROVIDING FOR FIRE INSPECTIONS IN FIRE SERVICE AREAS; AND AMENDING SECTIONS 7-33-2402, 50-61-102, 50-61-114, AND 50-63-202, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-33-2402, MCA, is amended to read:

"**7-33-2402. Area services.** (1) A fire service area created pursuant to 7-33-2401 may provide residents of the area with adequate and standard:

~~(1)(a)~~(a) (i) fire and emergency response equipment, personnel, facilities, and maintenance, for a fire service agency providing service to the area; or

~~(b)~~(ii) fire protection by contracting for the services of a fire service agency; and

~~(2)~~(b) emergency medical services and equipment, licensed by the department of health and environmental sciences, and related personnel, facilities, and maintenance.

(2) A fire service area may, pursuant to 50-61-102, submit a fire code and a plan for enforcement to the department of justice in order to be certified for local enforcement. HOWEVER, AN APPOINTED BOARD OF TRUSTEES OF A FIRE SERVICE AREA SHALL OBTAIN APPROVAL OF THE COUNTY COMMISSIONERS PRIOR TO SUBMITTING A FIRE CODE AND A PLAN OF ENFORCEMENT TO THE DEPARTMENT OF JUSTICE."

Section 2. Section 50-61-102, MCA, is amended to read:

"**50-61-102. Department of justice to administer chapter.** (1) The department of justice has general charge and supervision of the enforcement of this chapter, and the officers enumerated in 50-61-114 shall act under its general charge and supervision, shall assist the department in giving effect to this chapter, and are subject to its direction and the rules adopted under 50-3-102 and 50-3-103 for the enforcement of 50-61-120 and 50-61-121 and this chapter.

(2) Upon its approval of a fire code and a plan for enforcement of the code filed by a municipality, ~~or~~ district, or fire service area, the department may certify a municipal, ~~or~~ district, or fire service area fire inspection program for local enforcement."

Section 3. Section 50-61-114, MCA, is amended to read:

"**50-61-114. Fire chief and fire inspector to make inspections.** The chief of the fire department of each municipality, ~~or~~ district, or fire service area, when a fire inspection program is established, or a fire inspector of the department of justice, when ~~no~~ a fire inspection program ~~exists~~ does not exist, for the purpose of examining the premises for violations of this chapter and rules adopted under 50-3-103 for the enforcement of this chapter:

(1) shall enter into school buildings at least once each 12 months; and

(2) may enter into all other buildings and upon all other premises within ~~his~~ the jurisdiction, according to priority schedules established by the department for conducting inspections of buildings and premises."

Section 4. Section 50-63-202, MCA, is amended to read:

"**50-63-202. Fire chief or sheriff to conduct investigation.** If the fire occurs within a municipality, ~~or~~ organized fire district, or fire service area, the chief of the fire department shall make the investigation. If the fire occurs outside a municipality, ~~or~~ organized fire district, or fire service area, the county sheriff shall make the investigation."

-END-